IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

RP.No. 875 of 2006

AGAINST THE JUDGEMENT IN OP.2953/2002
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PETITIONER/PETITIONR WPC.

K.R.SURESH BABU, PHYSICAL EDUCATION TEACHER, KOTAPPURAM H.S. PARAVOOR, KOLLAM.

BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)
SRI.S.HARIKRISHNAN

RESPONDENTS:RESPONDENTS & APPELLANTS 3 & 4 IN W.A.
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1. THE DEPUTY DIRECTOR OF EDUCATION, OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION, KOLLAM.

2. THE ACCOUNTNT GENERAL, OFFICE OF THE ACCOUNTANT GENERAL, THIRUVANANTHAPURAM.

3. THE HEADMISTRESS, KOTAPPURAM H.S. PARAVOOR.

4. THE MANAGER, KOTAPPURAM, H.S. PARAVOOR.

5. THE EDUCATIONAL OFFICER, OFFICE OF THE EDUCATIONAL OFFICER, KOLLAM.

BY GOVERNMENT PLEADER (SHRI P. K. RAVIKRISHNAN)

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 13/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 875 OF 2006 B

Dated this the 13th August, 2007

ORDER

Petitioner seeks review of the Judgment. Petitioner was appointed on 4.6.1984. He had provisional service from 19.8.1981 to 31.3.1982 and from 18.10.1981a to 31.1.1983 in the same scale of pay. It comes eleven months and three days. Petitioner approached this Court against Ext.P3 based on the audit objection. The declaration of the petitioner's probation by taking into consideration his provisional service was found objectionable. This Court upheld the said view. But, recovery was found impermissible and restrained. It is further noted that for the purpose of fixation, the stand of the respondents will prevail. Petitioner takes exception to the said portion of the Judgment. According to petitioner, this Court would have meant probation instead of fixation. In the Counter Affidavit filed in the Writ Petition, exception was taken to the declaration

of probation as also to the grant of increments. In regard to grant of increment, the objection falls in two parts. Firstly, it was their case that the grant of first increment is governed by Rule 61 (1A) of Chapter XIV A KER. As per the said Rule, first increment can be granted only after declaration of satisfactory completion of probation under Rule 6. The second part relates to the objection to grant of increment based on the difference in the scale of pay due to pay revision. In regard to the latter, petitioner, of course, relies on a decision of the Division Bench of this Court in Hussain v. Kerala Water Authority (1996 (2) KLT 555) to contend that the revision brought about would not have a bearing on the payment of increment and provisional service can be counted for reckoning increment. But, I note that as far as the first objection is concerned, namely the grant of first increment, it is a matter governed by the specific terms of Rule 61(1A) in respect of an Aided School Teacher. I feel that

the appropriate remedy for the petitioner, in such circumstances, would be to appeal my Judgment and the Review Petition fails and it is dismissed.

K. M. JOSEPH, JUDGE

kbk.